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NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

T.F., Petitioner, v. THE SUPERIOR COURT OF CONTRA COSTA COUNTY, Respondent; CONTRA COSTA COUNTY CHILDREN & FAMILY SERVICES BUREAU et al., Real Parties in Interest.	A157418 (Contra Costa County Super. Ct. No. J18-00947)

T.F. (mother) petitions this court for extraordinary writ review of a juvenile court order setting a selection-and-implementation hearing under Welfare and Institutions Code[1] section 366.26 for her son, eight-month-old Anthony L. Mother claims that the court erred by denying her reunification services. We agree that the court erred by bypassing services under section 361.5, subdivision (b)(10) (section 361.5(b)(10)) and grant the petition in part.

[1] All further statutory references are to the Welfare and Institutions Code.

I.
FACTUAL AND PROCEDURAL BACKGROUND

In October 2018, three days after Anthony was born, real party in interest Contra Costa County Children & Family Services Bureau (Bureau) filed a petition seeking juvenile court jurisdiction over him under section 300, subdivisions (b) (failure to protect) and (j) (abuse of sibling). Mother had a history of substance abuse, including during her pregnancies with Anthony and Anthony's older brother, A.L., who tested positive for methamphetamines at his birth in November 2017. In addition, her relationship with the boys' alleged father (father) was marked by domestic violence, and she had untreated mental health issues that led to two suicide attempts.[2] As a result of these circumstances, both A.L. and A.V., the boys' nine-year-old maternal half brother, were also made dependents of the juvenile court.[3] Mother received 18 months of reunification services in A.V.'s case, and he was returned to her care. She was unsuccessful in family maintenance services, however, and A.V. was removed again. She was denied reunification services from the outset in A.L.'s case.

In January 2019, the juvenile court sustained allegations under section 300, subdivisions (b) and (j) and adjudged Anthony a dependent child. Four months later, after a contested disposition hearing, the court denied mother reunification services under section 361.5(b)(10) and (13).[4] The court also scheduled a section 366.26 hearing for September 20, 2019.

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[2] Father sought presumed-father status, but he failed to complete court-ordered genetic testing and never visited Anthony. As of the most recent hearing in our record, he remained an alleged father, and we do not discuss him further.

[3] The juvenile court granted the Bureau's request for judicial notice of various documents in A.L.'s and A.V.'s cases.

[4] As mother points out, the written order incorrectly reflects that reunification services were also bypassed under section 361.5, subdivision (b)(7). That provision applies only if "the parent is not receiving reunification services for a sibling or a half sibling of the child pursuant to paragraph (3), (5), or (6)." (§ 361.5, subd. (b)(7).) As the

II.
DISCUSSION

The Bureau concedes that the record does not support the bypass of reunification services under section 361.5, subdivision (b)(13), so we address only section 361.5(b)(10). Under that provision, services need not be provided to a parent if the juvenile court finds by clear and convincing evidence that "the court ordered termination of reunification services for any siblings or half siblings of the child because the parent . . . failed to reunify with the sibling or half sibling after the sibling or half sibling had been removed from that parent . . . pursuant to Section 361 and . . . , according to the findings of the court, this parent . . . has not subsequently made a reasonable effort to treat the problems that led to removal of the sibling or half sibling of that child from that parent." We review an order denying reunification services for substantial evidence, although our review is de novo "to the extent our analysis involves statutory interpretation." (*In re T.G.* (2015) 242 Cal.App.4th 976, 987.)

We agree with mother that section 361.5(b)(10) does not apply here, because the juvenile court did not order termination of her reunification services in either of her other sons' cases.[5] In A.L.'s case, mother never received reunification services, so there was nothing to terminate. And in A.V.'s case, mother received reunification services, but the court never ordered their termination based on her failure to reunify. Instead, after she received 18 months of reunification services, A.V. was returned to her care, and she then received family maintenance services. Only after she failed to comply with the terms of her family maintenance plan was A.V. again removed, at which point she was no longer entitled to reunification services because the statutory maximum had been reached.

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juvenile court observed, subdivision (b)(7) is "inapplicable," because mother's services were not bypassed under any of these three paragraphs in either A.L.'s or A.V.'s case.

[5] As a result, we need not address whether there is sufficient evidence that mother did not make reasonable efforts to address the problems leading to A.L.'s or A.V.'s removal.

The Bureau claims that in A.V.'s case, mother's reunification services were in fact "officially terminated [in] July 2018, when a [section] 366.26 hearing was set," meaning she actually "received over 31 months of services." The record belies this contention. In the July 2018 disposition order the Bureau identifies, the juvenile court adopted the Bureau's recommendation that further "reunification services not be provided to mother." In other words, the reunification period had expired and the court did not extend it. Thus, while it is true that mother *exhausted* her reunification services, they were never terminated by court order because of her failure to reunify with A.V. And while the same order provided that *family maintenance services* to mother were "[t]erminate[d]," family maintenance services are not the same as reunification services. (See § 16501, subds. (g) [defining "family maintenance services"], (h) [defining "family reunification services"].)

We are sympathetic to the Bureau's position that providing mother with reunification services is not in Anthony's best interest, given the serious, ongoing problems that have prevented her from safely parenting her other children. But the law has a "strong preference for maintaining the family relationship if at all possible," and the record fails to demonstrate that any of section 361.5(b)'s "narrow" exceptions apply. (*In re Baby Boy H.* (1998) 63 Cal.App.4th 470, 474.) In particular, we "presume the Legislature meant what it said" in section 361.5(b)(10), and we decline to read the provision in contravention of its unambiguous terms. (*J.A. v. Superior Court* (2013) 214 Cal.App.4th 279, 284; but see *In re Gabriel K.* (2012) 203 Cal.App.4th 188, 195–196.)

Mother asks that we not only overturn the order at issue but "remand the case to the juvenile court . . . with instructions to provide [her] with reunification services." The Bureau, however, suggests that additional information not in our record may support the bypass of services. We conclude the better course is for the juvenile court to hold a new disposition hearing "to consider whether reunification services will be offered to [mother] or denied on some other ground." (*J.A. v. Superior Court*, *supra*, 214 Cal.App.4th at p. 284.)

III.
DISPOSITION

Mother's petition is granted in part. Let a peremptory writ issue directing the juvenile court to vacate its May 24, 2019 order and to hold a new disposition hearing to consider whether to order reunification services for mother. In the interests of justice, this decision is final in this court immediately. (Cal. Rules of Court, rules 8.452(i), 8.490(b)(2)(A).)

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Humes, P. J.

WE CONCUR:

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Margulies, J.

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Sanchez, J.

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